

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

CHARLES MICHAEL WENTZ,

Plaintiff,

v.

CIVIL ACTION NO. 2:22-cv-00528

SUPERINTENDENT DONALD AMES, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

On November 17, 2022, the Plaintiff, acting *pro se*, filed his Complaint (Document 2) in this matter. A Proposed Amended Complaint (Document 35) was filed on October 26, 2023, an Amended Complaint (Document 47) was filed on March 21, 2024, and a Revised Amended Complaint (Document 58) was filed on July 31, 2024.

Defendants' Motion for Summary Judgment (Document 74) and Memorandum in Support (Document 75) were filed on January 3, 2025. The Plaintiff's Response in Opposition to Defendants' Motion (Document 78) was filed on February 10, 2025, and Defendants' Reply (Document 79) was filed on February 14, 2025.

By *Administrative Order* (Document 4) entered on November 18, 2022, this action was referred to the Honorable Omar J. Aboulhosn, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C.

§ 636. Additionally, by *Memorandum Opinion and Order* (Document 43) entered on March 6, 2024, the matter was referred to the Magistrate Judge for further proceedings.

On March 18, 2025, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 83) wherein it is recommended that Defendants' Motion for Summary Judgment (Document 74) be granted in part and denied in part. Specifically, it is recommended that the motion be granted as to the Plaintiff's official capacity claim against the Defendants requesting monetary damages and be denied concerning all other claims asserted against the Defendants. Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by April 4, 2025.

Neither party has timely filed objections to the *Proposed Findings and Recommendation*. The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and a party's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984).

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation*, and **ORDERS** that Defendants' Motion for Summary Judgment (Document 74) be **GRANTED IN PART AND DENIED IN PART**. Specifically, it is **ORDERED** that the motion is **GRANTED** as to the Plaintiff's official capacity claim against the Defendants requesting monetary damages and **DENIED** concerning all other claims asserted against the Defendants.

The Court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge Aboulhosn, counsel of record, and any unrepresented party.

ENTER: April 10, 2025

A handwritten signature in blue ink, reading "Irene C. Berger", is written over a horizontal line.

IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA